

FACT

August 9, 2016

**Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, D.C. 20463**

Re: Complaint against Senate Candidate Katie McGinty

Dear Counsel,

The Foundation for Accountability and Civic Trust (FACT) is a non-profit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interests over the interests of the public good. This complaint is submitted, upon information and belief, to urge the Federal Election Commission (FEC) to investigate and take appropriate enforcement actions to address apparent violations of the Federal Election Campaign Act, as amended (Act), and FEC regulations by Katie McGinty and her principal campaign committee, Katie McGinty for Senate (FEC ID #C00582809).

Senate candidate McGinty is using her campaign website to illegally coordinate with super PACs and other organizations that support her candidacy.¹ Through obscure postings on her website, McGinty is instructing organizations, with which she is not permitted to coordinate, to run advertisements beneficial to her campaign.² This is not general candidate or campaign information provided to the general public, but is specific content and direction based on the campaign's internal information and needs that is targeted to super PACs and other organizations.³ This type of behavior is contrary to

¹ See Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A).

² *Id.*

³ *Id.*

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federal law that prohibits candidates from coordinating with super PACs, and the fact that the coordination is done somewhat publicly does not excuse her violations of the law. There is no requirement that the commission of a crime be covered up. The Commission must immediately investigate and enforce the law.⁴

I. FACTS

At least five Senate candidates have used their campaign websites to post “hints, tips and flat-out instructions for” super PACs and other organizations.⁵ The websites use obscure pages to instruct outside groups on ads to run, including the specific message to convey in ads, and may also include whether the ad should be run state-wide or in a smaller media market or provide photographs and video of the candidate.⁶ The pages generally use similar language, such as voters “need to know” or “should know” about certain information.⁷ Although the methods vary slightly, the purpose and effect is clear—to illegally coordinate with super PACs and other organizations.

One of the most egregious examples is Senate candidate Katie McGinty’s web page and the results she has received. McGinty maintains a “notice” page on her website, which is graphically different from all other pages on her website and contains no links to other pages.⁸ The notice page details the specific information McGinty wants conveyed in television ads using the phrase “voters need to know.”⁹ As circumstances change or once an outside group runs the ad, the “voters need to know” information is updated.¹⁰

For instance, in March 2016, McGinty’s notice page set forth certain biographical information—information that was publically and prominently available on her web page

⁴ See 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

⁵ Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A).

⁶ *Id.*

⁷ *Id.*

⁸ Katie McGinty for Senate, available at <http://katiemcginty.com/notice/> (last visited Aug. 3, 2016) (attached as Exhibit B).

⁹ See Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A); Katie McGinty for Senate, available at <http://katiemcginty.com/notice/> (last visited Aug. 5, 2016) (attached as Exhibit B).

¹⁰ *Id.*

on the “about” page.¹¹ The notice page stated: “As the ninth of ten children and the daughter of a police officer who walked the beat and a restaurant hostess, Katie McGinty is fighting to help everyday families.”¹² On April 4, “EMILY’s List super PAC began airing ads focused on just that,” stating “Her dad was a Philly cop, her mom worked in a restaurant”¹³

McGinty then updated the “notice” section to state that voters “need to know” her primary opponent, Joe Sestak, “‘supported a plan that would have cut Social Security and Medicare benefits, raised the Social Security retirement age to 69, and forced higher out-of-pocket spending for Medicare recipients.’”¹⁴ In its second ad based upon the “notice” page, on April 11, EMILY’s List’s ad “again reflected the text”:

Joe Sestak supports a plan that the New York Times reported makes cuts to Social Security benefits, and the plan raises the retirement age, The AARP opposed the plan citing dramatic cuts to Medicare benefits. The plan Sestak supports means higher out-of-pocket costs for millions on Medicare.¹⁵

The notice page is also apparently used to voice approval of ads and request the ads continue to run.¹⁶ At the end of June, Majority Forward (an affiliation of Senate Majority PAC) ran an ad against McGinty’s opponent, in which the narrator stated: **“Wall Street’s given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market.”**¹⁷ Shortly thereafter, on July 6, the notice page was updated to state: “Pennsylvania voters all across the state need to keep hearing a lot more about Pat

¹¹ *Id.*; Katie McGinty for Senate, <http://katiemcginty.com/about/> (last accessed August 3, 2016) (Attached as Exhibit C).

¹² Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A);

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*; Glen Kessler, *Emily’s List’s Sleazy Attack Ad In The Pennsylvania Senate Race*, The Washington Post, April 27, 2016 (Attached as Exhibit D); EMILY’s List, *Women Vote! Launches Ad Educating Pennsylvania Voters on Sestak’s Record*, April 11, 2016 (Attached as Exhibit E).

¹⁶ Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A)

¹⁷ Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A); *see also* Majority Forward, <http://www.majorityforward.com/> (last accessed Aug. 4, 2016) (attached as Exhibit F).

Toomey and Wall Street. Wall Street's given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market.”¹⁸

II. Law

Under the FECA, candidates for federal office are subject to regulations that limit or prohibit contributions from and interactions with individuals, groups, and organizations. Among these regulations, federal candidates are prohibited from accepting contributions from an individual or a non-multicandidate PAC in excess of \$2,700, from a multicandidate PAC in excess of \$5000, or from any corporation or labor organization in any amount.¹⁹ Federal candidates are also prohibited from accepting contributions or coordinating with independent expenditure only committees, *i.e.* super PACs.²⁰

Contributions are broadly defined to include cash donations, but also “anything of value . . . for the purpose of influencing any election for Federal office.”²¹ Federal law specifically provides that certain expenditures are contributions, including:

(i) “expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents.”

....

(iii) “the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents.”²²

In order to determine whether an expenditure was made in cooperation with a candidate under subsection (i), FEC regulations provide a three-part test: (1) the communication is paid for by a third-party; (2) the communication satisfied a “content”

¹⁸ Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A); Katie McGinty for Senate, available at <http://katiemcginty.com/notice/> (last visited Aug. 3, 2016) (attached as Exhibit B).

¹⁹ 52 U.S.C. §§ 30116, 30118.

²⁰ 52 U.S.C. §§ 30101, 30118.

²¹ 52 U.S.C. § 30101(8)(A).

²² 52 U.S.C. § 30116(a)(7)(B)(i) and (iii).

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standard of 11 C.F.R. § 109.21(c); and (3) the communication satisfies one of the “conduct” standards of 11 C.F.R. § 109.21(d).²³

However, the three-part test is not applicable to the republication of campaign materials under subsection (iii). Republication is simply an in-kind contribution for the purposes of contribution limitations and reporting responsibilities of the person making the expenditure.²⁴ Therefore, because a super PAC is prohibited from making a contribution to a federal candidate, it is also prohibited from republishing candidate campaign materials.

II. Analysis

Katie McGinty’s actions above are not only a clear attempt to violate the law, but a successful one. This is not a case where a super PAC has lifted information available to the general public from a candidate’s web page. Rather, this is a case where the candidate has made an obscure web page simply to communicate with a super PAC. There are numerous facts that are evidence of coordination: The “notice” page has a different appearance than the site’s other pages and does not link to any of the site’s other pages, indicating that it is was published for a different purpose than the general web site and not published for the general public. The information posted on the “notice” page is repetitious with other information on the web page, also indicating that it has a distinct purpose separate from the rest of the site. The campaign, which has knowledge from polling and other activities, is stating what ad content would be helpful to the campaign. Currently the campaign page contains language identical to an ad. Even more revealing is the timeline of posts and the ads that follow the campaign’s posts. These facts make it clear that McGinty is using the notice page to communicate with super PACs and other groups about the types of ads that would be helpful to her campaign.

In addition to these facts clearly demonstrating coordination, they also meet the FEC’s three-prong test. First, the communications were paid for by other groups—EMILY’s List or Majority Forward.

Second, the ads meet several of the content prongs under 11. C.F.R. § 109.21(c). Under subsection (4), the EMILY’s List ads clearly reference a Senate candidate (Joe Sestak) and is publically distributed within the candidate’s jurisdiction (Pennsylvania)

²³ 11 C.F.R. § 109.21.

²⁴ 11 C.F.R. § 109.23.

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ninety days before the primary election (ads ran in April 2016 before the April 26, 2016 primary).²⁵ Both the EMILY's List ads and Majority Forward ads meet the content prong under subsection (5), as they are the functional equivalent of express advocacy as the ads are clearly "an appeal to vote for or against a clearly identified Federal candidate."²⁶ There can be no argument that it does not appeal to vote against McGinty's competitor candidates, because McGinty's own website explains that information is necessary for voters to have.²⁷

Finally, the ads meet several of the conduct prongs under 11 C.F.R. § 109.21(d). Under subsection (1), the ads were clearly created and distributed at the request of the candidate and her committee's request. In addition to the numerous facts discussed above that demonstrate coordination—the separate page with redundant information separated out and the language used to signal the request—the effectiveness of the requests also demonstrate they were in fact requests made by the candidate and campaign. Although the request was made through a somewhat public web page, this does not excuse the fact that the request was made.²⁸ Unlike other conduct prongs, subsection (1) **does not state** that it does not apply if the "material was obtained from a publicly available source." Rather, any interpretation of subsection (1) that would permit this would result in permissible coordination by request so long as the request was made publicly—this is an unreasonable and contrary to the regulations and statute.²⁹ Moreover, this is not a case where the communication resulted from generally publicly available information—a request was

²⁵ 11 C.F.R. § 109.21(c)(4)(i).

²⁶ 11 C.F.R. § 109.21(c)(5)

²⁷ Katie McGinty for Senate, available at <http://katiemcginty.com/notice/> (last visited Aug. 3, 2016) (attached as Exhibit B).

²⁸ Compare 11 C.F.R. § 109.21(d)(1)(i) ("The communication is created, produced, or distributed at the request or suggestion of a candidate, authorized committee, or political party committee."), with 11 C.F.R. § 109.21(d)(2) ("This paragraph . . . is not satisfied if the information material to the creation, or distribution of the communication was obtained from a publicly available source.")

²⁹ The commission has previously stated "that a communication resulting from a general request to the public or the use of publicly available information, including information contained on a candidate's campaign website, does not satisfy the content standards." FEC, Factual & Legal Analysis, Shaheen for Senate, MUR 6821 (Dec. 2, 2015). However, this analysis should only apply to the conduct alternatives that explicitly state this in its description. See, e.g., 11 C.F.R. § 109.21(d)(2) and (3). Any other interpretation would be contrary to the plain language of the Commission's regulations.

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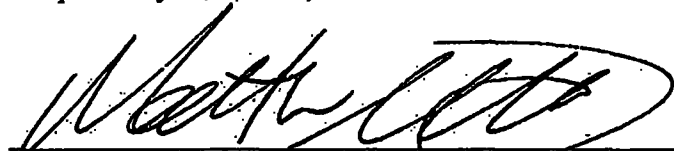
made based upon internal campaign information to a super PAC.³⁰ Any interpretation of the Commission's regulations that would permit illegal acts to be committed publicly is plainly erroneous and inconsistent with the statute.

Finally, the ads are also expenditures because they are republication of campaign material.³¹ Although the first two ads were not verbatim, it was extremely similar and it is unbelievable that it was coincidental at least three times in just months.³² The current post on the notice page had identical language from the ad run by Majority First.³³ Either the campaign is communicating to Majority First to continue running the ad, or Majority First took the language from the campaign, but either way it demonstrates cooperation.

III. Conclusion

There should be no doubt McGinty is using an obscure page on her website to coordinate with super PACs, and that coordination has resulted in ads that are illegal in-kind donations to McGinty's campaign. This is an extreme violation because unlike candidates, super PACs can accept unlimited contributions and any permitted cooperation with a federal candidate would simply eviscerate the FECA. It is not a defense that McGinty is using a public venue to illegally coordinate with a super PAC—there is no requirement that a crime be committed in secret. If the Commission does not act and punish such a clear violation, then the laws are without purpose. FACT respectfully requests the Commission immediately investigate and hold the Respondents accountable.

Respectfully submitted,



Matthew G. Whitaker, Executive Director
Foundation for Accountability & Civic Trust
1717 K Street NW, Suite 900
Washington, D.C. 20006

³⁰ As evidence of the request, other candidates who also illegally coordinated through their web page also used similar language to signal the content for ads, and the use of the state or city indicated the geographical media market in which to run the ad.

³¹ 52 U.S.C. § 30116(a)(7)(B)(iii).

³² Maggie Severns, *Democratic Candidates Writing Instructions to Super PACs on Their Websites*, Politico, July 15, 2016 (Attached as Exhibit A).

³³ *Id.* Katie McGinty for Senate, available at <http://katiemcginty.com/notice/> (last visited Aug. 3, 2016) (attached as Exhibit B).

Subscribed and sworn to before me on August 9, 2016.



Zachary S. Goodrich Notary Public
My Commission Expires: 2/19/2018



Federal law prohibits candidates from explicitly coordinating with outside groups, but public communications that outside groups pick up on are fair game, with few limitations, and campaigns' experiments with such missives are growing bolder over time. | AP Photo/J Pat Carter

Democratic candidates writing instructions to super PACs on their websites

By **MAGGIE SEVERNS** | 07/15/16 05:02 AM EDT

You don't have to look hard to find out how Democratic Senate candidates want their outside allies to spend money this year.

The party's candidates in Florida, Ohio, Pennsylvania and elsewhere are posting thinly veiled notes on their websites with hints, tips and flat-out instructions for supportive outside groups about how best they can help. The pages include not only messaging information but suggestions about which media markets in the states would make the best targets for those messages.

In a small, yellow box on her campaign site, Katie McGinty regularly publishes notes on what issues Pennsylvania voters, particularly women, should be hearing about. Ted Strickland has a public page, "Ohio Needs to Know," with issue briefs on GOP Sen. Rob Portman's vote record and b-roll of a smiling Strickland talking to voters. And Democratic outside groups have already lifted the messages on both pages for use in expensive TV ads that the Senate campaigns themselves may not have been able to afford at the time.

Federal law prohibits candidates from explicitly coordinating with outside groups, but there's a loophole as wide as the internet itself. Public communications that outside groups pick up on are fair game, with few limitations, and campaigns' experiments with such missives are growing bolder over time.

"It used to be you sent out smoke signals. But there's no need to be elliptical about the smoke signals anymore," said Kenneth Gross, a campaign finance expert and partner at Skadden, Arps, Slate, Meagher & Flom.

At least five Democratic Senate candidates have posted such messages recently, a review by POLITICO found, which experts said are notable for their level of specificity. Some verge on instructing super PACs on what to do, which is prohibited, but campaign finance experts said they would most likely clear the current bars enforced by the Federal Election Commission.

In Florida, Rep. Patrick Murphy's campaign has a clear message for supportive outside groups, potentially including the DSCC and a super PAC funded by his family. "Florida Democrats, especially those from Tampa to Orlando, deserve to know that President [Barack] Obama endorsed Patrick Murphy," Murphy's website reads.

Murphy's own campaign is preparing to spend over a million dollars on TV ads ahead of Florida's Aug. 30 primary, but Orlando is missing from the early ad reservations, according to a source tracking Murphy's media buys. And Murphy's buy in Tampa is far below saturation levels.

The McGinty, Murphy and Strickland campaigns declined to comment for this story, as did two outside groups: Senate Majority PAC and EMILY's List.

Strickland's campaign recently hinted that it would appreciate certain ads in certain media markets, according to transcripts provided to POLITICO of text that appeared on Strickland's website in May.

Two notices posted in early May said that "people in Columbus should know about the contrast between Portman and Strickland on retirement security," and that "people in Cleveland, Akron, Canton, Youngstown and Appalachia should see and hear about the contrast between Portman and Strickland on trade policy."

On May 24, labor groups went live with two ads in Ohio in just those media markets.

The American Federation of Teachers ran an ad only in Columbus that hit Portman on Social Security. Meanwhile, a second ad from AFSCME, which ran in Cleveland and Youngstown, criticized Portman on trade.

Strickland posted a June update about educating Ohio voters on Portman's Social Security positions that was followed by ads run by Senate Majority PAC on the issue. A new post, from July 12, notes that "Ohioans across the state will always need to know about the contrast between Ted Strickland and Senator Portman on trade."

These hints on geography "come close to being directions on how to help the campaigns," said Larry Noble, general counsel at the Campaign Legal Center, which is illegal. But currently, the FEC has interpreted law in a way that "if [campaigns] do it publicly, it's not coordination."

Other public hints to super PACs have focused just on messaging. In March, ahead of her tough primary against ex-Rep. Joe Sestak in Pennsylvania, one of McGinty's notes highlighted her biography: "As the ninth of ten children and the daughter of a police officer who walked the beat and restaurant hostess [sic], Katie McGinty is

fighting to help everyday families," the McGinty website read on March 7.

EMILY's List's super PAC began airing ads focused on just that on April 4.

"Her dad was a Philly cop, her mom worked in a restaurant. ... She'll always stand up for manufacturing, higher wages and equal pay for women so opportunity never gets out of reach," a narrator said in the first ad aired by EMILY's List.

By March 24, McGinty's site updated with negative information about her primary opponent. Voters "need to know" that Sestak supported a plan that "would have cut Social Security and Medicare benefits, raised the Social Security retirement age to 69, and forced higher out-of-pocket spending for Medicare recipients," McGinty's website read.

EMILY's List's second ad, released April 11, again reflected the text: "Joe Sestak supports a plan that the New York Times reported makes cuts to Social Security benefits, and the plan raises the retirement age. ... The plan Sestak supports means higher out-of-pocket costs for millions on Medicare."

The FEC recently ruled on a similar exchange of information in 2014, between Sen. Jeanne Shaheen and Senate Majority PAC during the 2014 election. The commission said that because the PAC didn't copy Shaheen's signals verbatim and Shaheen didn't explicitly instruct the PAC to make the ads, the public signaling was allowed.

That ruling, and others like it, have increasingly convinced campaigns and outside spenders that public messages between campaigns and super PACs are unlikely to draw punishment from the FEC — even if they appear to be against the spirit of campaign finance laws. And with Democratic campaigns like Strickland's, McGinty's and others making do with less money than their opponents, they clearly want to make sure supporters don't spend precious resources on anything but the optimal message.

McGinty's campaign has kept up its signaling into the general election. Majority Forward, a 501(c)(4) nonprofit affiliated with Senate Majority PAC, spent \$400,000 attacking Republican Sen. Pat Toomey with an ad that began airing at the end of June in Pennsylvania.

"Wall Street's given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market," a narrator says in the ad.

McGinty's campaign appeared thankful to see that ad on TV — but unsatisfied with the amount of money behind the message.

"Pennsylvania voters all across the state need to keep hearing a lot more about Pat Toomey and Wall Street," McGinty's website currently reads. "Wall Street's given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market."

Visit the [Campaign Pro Race Dashboard](#) to track the candidates and consulting firms engaged in the top House, Senate, and gubernatorial races of 2016.

07/06/16: Pennsylvania voters all across the state need to keep hearing a lot more about Pat Toomey and Wall Street. Wall Street's given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market. Sen. Toomey made millions as a Wall Street banker. Then he moved to Hong Kong, working for a billionaire Chinese investor. In Congress, Toomey carries Wall Street's water – voting to let banks continue their risky practices and opposing cracking down on Chinese currency manipulation. Toomey working for China has helped cost Pennsylvania more than one hundred and twenty thousand jobs.

Pat Toomey is with Wall Street and China, not Pennsylvania families.

Toomey Has Received Over \$2.7 Million from Wall Street

Toomey Has Received Over \$2.7 Million from the Securities and Investment Industry. According to the Center for Responsive Politics, Toomey has received a career total of \$2,790,933 from the Securities & Investment industry. [Center for Responsive Politics, accessed 7/06/16 (<https://www.opensecrets.org/industries/summary.php?ind=f07&cycle=All&recipdetail=S&sortorder=N&mem=Y&page=2>)]

Toomey Supported Privatizing Social Security, Putting it On the Stock Market

Morning Call: "Toomey: Privatize Social Security." [Morning Call, 4/25/03 (http://articles.mcall.com/2003-04-25/news/3475125_1_private-accounts-social-security-payroll-taxes)]

Philadelphia Inquirer: Toomey Has Supported Social Security Privatization "For a Decade or More." "Except that for a decade or more Toomey has spoken of reforming the entitlement program by allowing younger workers to invest part of their payroll taxes and thus "own" their savings in a personal retirement account. The idea has its own chapter in his book, The Road to Prosperity, and Toomey was a leading advocate of former President George W. Bush's 2005 plan for personal accounts." [Philadelphia Inquirer, 8/26/10 (http://www.philly.com/philly/blogs/harrisburg_politics/Toomey_Privatize_Social_Security_Who_me.html)]

Times-Tribune: "Toomey Defends Plan to Ensure Form of Social Security Privatization." "Republican U.S. Senate candidate Pat Toomey defended his proposal Thursday to ensure Social Security's future with a form of privatization...Mr. Toomey would allow younger workers to voluntarily divert a portion of their Social Security payroll tax into private savings accounts they would control and invest in any way they want." [Times-Tribune, 10/08/10 (<http://thetimes-tribune.com/toomey-defends-plan-to-ensure-form-of-social-security-privatization-1.1045609>)]

Toomey Made Millions on Wall Street and Worked in Hong Kong for a Chinese Investor

Toomey Worth Up to \$4.8 Million. As of 2014, OpenSecrets reports that Toomey is worth between \$1,874,058 and \$4,811,000. [OpenSecrets, accessed 5/27/16 (<https://www.opensecrets.org/politicians/otherdata.php?cid=N00001489&cycle=2014>)]

Pittsburgh Post-Gazette: Toomey "Earned the Bulk of His Wealth as a Trader on Wall Street." "Mr. Toomey earned the bulk of his wealth as a trader on Wall Street and, briefly, in Hong Kong. After six years in Congress, he served as president of the Club for Growth, an anti-tax group backed by the financial industry." [Pittsburgh Post-Gazette, 10/15/10 (<http://www.post-gazette.com/news/politics-state/2010/10/15/Sestak-calls-Toomey-a-millionaire-but-he-is-too/stories/201010150251>)]

Philly Mag: Toomey Spent a Year Working in Hong Kong for Chinese Billionaire Ronnie Chan. "He bases this in large part on his own experience, which includes the year he spent in Hong Kong researching capital markets for Chinese billionaire Ronnie Chan. 'The bank's attitude was, we're going to give you a certain amount of capital. Don't break any laws, don't break our rules, but otherwise go knock yourself out and make money for the firm,' he says in his office 20 years later. 'We had a lot of fun.'" [Philly Mag, 7/26/12 (<http://www.phillymag.com/articles/surprisingly-moderate-pat-toomey/3/>)]

Philadelphia Inquirer: Toomey Spent A Year In Hong Kong As An Investment Banker. "Toomey is well-traveled, and he spent a year living in Hong Kong while working as an investment banker. While there, he became convinced that China will emerge as a superpower to rival the United States in the decades ahead. How America handles that, Toomey said, will likely be the dominant foreign policy question of future decades." [Philadelphia Inquirer, 3/21/04 (http://articles.philly.com/2004-03-21/news/25383491_1_specter-foreign-policy-iraq)]

Allentown Morning Call: Toomey Spent His Time In Hong Kong Working On A "Special Project" For A Billionaire. "After working for two years at Chemical Bank, Toomey moved with his boss and four other employees to Morgan Grenfell, which won a small bidding war for their services. At Chemical Bank, Toomey and his co-workers had done pioneering work with interest and currency rate 'swaps,' instruments that help businesses to hedge their financial risks. [...] His last year at Morgan Grenfell was spent in Hong Kong working on a special project for a billionaire. But when it was over and Toomey returned to New York, he began to consider his options." [Allentown Morning Call, 4/11/04 (http://articles.mcall.com/2004-04-11/news/3545133_1_specter-s-big-tent-pat-toomey-house-conservatives/2)]

In Congress – Toomey Votes on the Side of Wall Street and China

Toomey "Relied Heavily" on Wall Street Experience to Craft Legislation Deregulating Banks While Serving on Financial Services Committee. The Associated Press reported that 1999 repeal of Glass-Steagall removed regulatory "walls, in theory allowing the creation of 'too-big-to-fail' financial institutions that could imperil the personal savings of Americans by making ill-conceived bets in securities markets. Toomey voted for the bill, and on his congressional website he wrote that he 'relied heavily on his previous work experience in investment and international financial services to help craft' it." [Associated Press, 8/14/10 (http://www.pennlive.com/midstate/index.ssf/2010/08/tv_ads_run_against_republican.html); Bloomberg, accessed 5/09/16 (<http://www.bloomberg.com/research/stocks/private/person.asp?personId=30337294&privcapId=4916222>)]

Toomey Voted For "Unregulated Trading of Financial Derivatives" – "Blamed, in Part, for the Current Economic Meltdown." In October 2000, Toomey voted for "a law that would open the door to unregulated trading of credit default swaps, the financial instruments blamed, in part, for the current economic meltdown" by "allowing unregulated trading of financial derivatives." [New York Times, 11/14/08 (<http://www.nytimes.com/2008/11/17/business/17grammside.html>); HR 4541, Vote #540 (<http://clerk.house.gov/evs/2000/roll540.xml>), 10/19/00]

Toomey Has Said Wall Street Reform Should "Absolutely" Be Repealed and Voted To Dismantle Dodd-Frank. Answering whether he thought Dodd-Frank should be repealed, Toomey stated: "Yes, absolutely. I think Dodd-Frank actually probably increases the risk of failure of the large financial institutions. I think it's enormously expensive and complicated." In 2013, Toomey voted for a budget that would "roll back 2010 Wall Street reform legislation." [Real Clear Politics, 6/23/11 (http://www.realclearpolitics.com/articles/2011/06/23/rcp_interview_with_sen_pat_toomey.html); S. Con. Res. 8, Vote #46 (http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=113&session=1&vote=00046), 3/21/13; Post-Intelligencer, 3/12/13 (<http://blog.seattlepi.com/seattlepolitics/2013/03/12/sen-murray-and-rep-ryan-rival-budgets-roaring>)]

differences/); HCR 112, Vote #98

(http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=112&session=2&vote=00098), 5/16/12]

Toomey Voted Against Allowing Sanctions If A Trading Partner's Currency Was "Misaligned" With A Set Of Economic Indicators. In October 2011, Toomey voted against a "bipartisan bill targeting China's alleged currency manipulation" which "would require the U.S. to impose tariffs on imports from China and other countries found to be undervaluing its currency." [Politico, 10/11/11

(<http://www.politico.com/story/2011/10/senate-passes-china-currency-bill-065683>); S. 1619, Vote 159

(http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=112&session=1&vote=00159), 10/11/11]

Toomey Voted Against Cracking Down On Currency Manipulation. In May 2015, Toomey voted against: "Portman, R-Ohio, amendment no. 1299 to the Hatch, R-Utah, substitute amendment no. 1221 that would seek as a principal negotiating objective of the United States the ability to have enforceable rules, dispute settlements, and remedies against exchange rate manipulation that are consistent with existing International Monetary Fund and World Trade Organization policies, while making an exception for U.S. practices on domestic monetary policy." [S.Amdt. 1299 to S.Amdt. 1221 to H.R. 1314, Vote 187, 5/22/15 (http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00187)]

Trade Deficit With China Has Cost Pennsylvania Over 120,000 Jobs

EPI: 122,600 Pennsylvania Jobs Have Been Lost or Displaced by Trade Deficit with China. In 2014, EPI reported that 122,600 Pennsylvania jobs have been lost or displaced by the trade deficit with China. EPI reports that China's "currency manipulation is a major cause of the trade deficit." [Economic Policy Institute, 12/11/14 (<http://www.epi.org/publication/china-trade-outsourcing-and-jobs/>)]

ABOUT KATIE

The daughter of a Philadelphia police officer and a restaurant hostess, Katie McGinty has spent her career working to protect the environment while creating new opportunities for Pennsylvania's working families. She is a leader in innovative clean energy, a no-nonsense policymaker who knows how to get the job done, and the proud mom of Tara, Alana, and Allie.

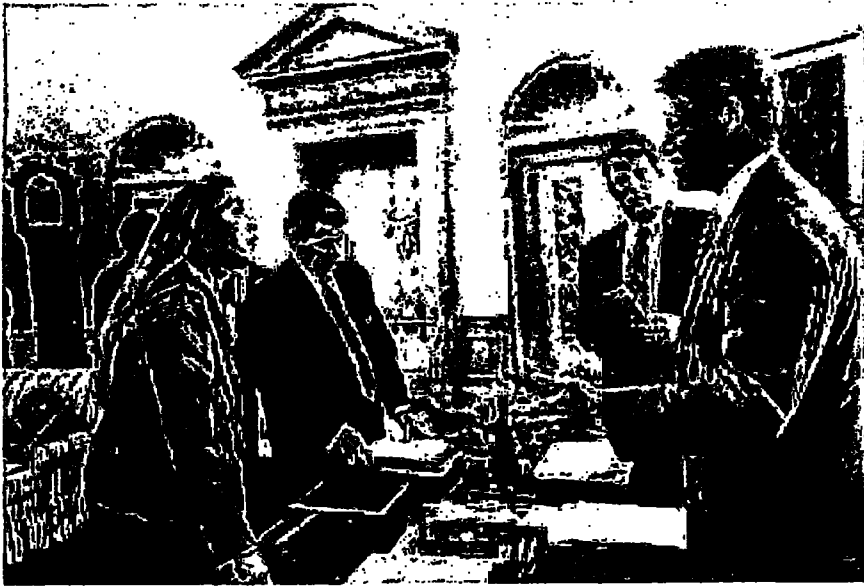


Katie grew up in Northeast Philadelphia, the ninth of ten kids. She learned the value of public service at home, from her dad who walked the beat as a police officer for more than 20 years.



With the help of scholarships and loans, Katie studied chemistry at Saint Joseph's University, the first in her family to attend a four-year college right out of high school, before heading to Columbia Law School.

From there, Katie earned a fellowship to go to Capitol Hill to work for Senator Al Gore. Senator Gore asked her to stay on as his top environmental advisor. She agreed, and put her science background to good use working with Republicans and Democrats alike to strengthen the Clean Air Act and take the first steps to address climate change.



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In 1993, President Bill Clinton appointed Katie to be his top environmental aide and later to chair the White House Council on Environmental Quality, the first woman ever to hold this position. In this capacity, Katie helped deliver major gains on renewable energy and clean air and water — all the while proving that a safe environment and a strong economy can go hand-in-hand.



Katie and her husband Karl then went to India to study the ways in which the two nations could work together to fight climate change. Before moving back to Washington D.C., they adopted twin daughters, Tara and Alana.

Katie returned home to Pennsylvania when Governor Ed Rendell asked her to serve as Secretary of the Department of Environmental Protection. In that role, she made it her mission to cross party lines and help bring leading renewable energy companies to Pennsylvania, putting 3,000 people to work in good paying clean energy jobs.

Since then, Katie has been a leader of several companies, continuing her work to protect the environment and promote clean energy. As Chief of Staff to Governor Tom Wolf, she led the charge to expand Medicaid to over 600,000 Pennsylvanians. Throughout her career, Katie has never lost sight of her working family roots or her love for the Keystone State.

Now, she's running to be Pennsylvania's first woman senator to rebuild the promise of the American Dream for working families like her own.

Katie lives in Wayne, Chester County, with her husband Karl, their daughters Tara, Alana, and Allie, and their dogs Marshall and Ginger.

ICYMI: Katie's Op-Ed in the Courier-Times (/icymi-katies-op-ed-courier-times/) 8.3.16

ICYMI: Katie McGinty wants to work toward safer streets and closer communities In an op-ed in the Bucks County Courier-Times today, Katie McGinty laid out her plan to protect police officers and rebuild trust in our communities. The daughter of a Philadelphia police officer who walked the beat for more than 20 years, Katie is fully committed ▶ (<http://katiemcginty.com/icymi-katies-op-ed-courier-times/>)

 (<https://twitter.com/KatieMcGintyPA>)

 (<https://www.facebook.com/katiemcgintypa>)

ABOUT KATIE ([HTTP://KATIEMCGINTY.COM/ABOUT/](http://katiemcginty.com/about/))

NEWS (/NEWS/)

RESOURCES ([HTTP://KATIEMCGINTY.COM/RESOURCES/](http://katiemcginty.com/resources/))

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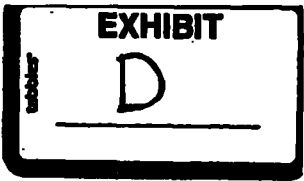
8/3/2016

About Katie | Katie McGinty: Democrat for Senate, Pennsylvania

CONTACT US ([HTTP://KATIEMCGINTY.COM/CONTACT-US/](http://katiemcginty.com/contact-us/))

PAID FOR BY KATIE MCGINTY FOR SENATE

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Emily's List's sleazy attack ad in the Pennsylvania Senate race

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Glenn Kessler April 27

For Senate, no spin ...just facts"

voiceover of Emily's List ad for Pennsylvania Senate candidate Katie McGinty (D)

he battle between former representative Joe Sestak (D-Pa.) and former White House aide Katie McGinty may be history, as McGinty on April 26 won the Democratic nomination to face incumbent Sen. Pat Toomey (R-Pa.) in the fall. But we still would like to examine this television ad because it demonstrates a disturbing trend — what our old colleague Mark Stencel has called the “weaponization of fact checking.”

In this case, Women Vote, an arm of Emily's List, a Political Action Committee that seeks to elect pro-choice Democratic women, is using words “true” and “truth” and even cites a fact checking organization to advance a deeply misleading claim. The group got away with it because television stations in Pennsylvania kept running the ad even though the Sestak campaign provided evidence that it was false.

The Facts

The commercial opens with a shot of Sestak being interviewed by Fox News's Bill O'Reilly, perhaps to associate the candidate with the right-leaning network. Then the voice-over intones:

“For Senate, no spin, just facts. Joe Sestak supports a plan that the New York Times reported makes cuts to Social Security benefits. And the plan raises the retirement age. It's true [image of “PolitiFact: True”]. The AARP opposed the plan, citing dramatic cuts to Medicare benefits. The plan Sestak supports means higher out of pocket costs for millions on Medicare. Anyway you spin it, the truth about Sestak is gonna hurt.”

Note the use of validators, such as the New York Times, the retiree group AARP and PolitiFact, and the words “true” and

truth” and “facts.” The ad is designed to have a ring of authority.

But what was this evil plan? It turns out to be the 2010 report by the National Commission on Fiscal Responsibility and Reform, better known as Bowles-Simpson because it was co-chaired by former White House chief of staff Erskine Bowles, a Democrat, and former senator Alan Simpson (R-Wyo.). President Obama established the commission, which sought to identify ways to trim nearly \$4 trillion from projected deficits through 2020.

The bulk of the savings were not from proposals affecting Social Security and Medicare, the items highlighted in the ad, but from cuts in discretionary spending and higher taxes. Still, the report landed with a thud in Washington. The commission passed the report by a vote of 11 to 7, which meant it fell short of the 14-vote threshold for sending the package to Congress for a vote.

Sestak was not on the commission, and while in Congress he never cast a vote regarding its provisions. Emily’s List bases its claims on vague references of “support” for the plan that Sestak has made on a handful of occasions over the years, mostly in the context of the general need to reduce the budget deficit.

When the plan was released in December 2010, Sestak was already an outgoing member of Congress, having just narrowly lost a Senate race to Toomey. Emily’s List cites an article that appeared in the Wilkes-Barre Citizens’ Voice in 2011 in which the former congressman decried partisanship at the time over the debt limit. He said that Obama should have embraced Bowles-Simpson with the “power of the bully pulpit” to achieve long-term budgetary reform before the debt crisis took place.

In a 2010 speech cited by Emily’s List, given before the report was released, Sestak said that “we have to structurally address our entitlement programs.” More recently, in 2016, Sestak referred to the plan as a “template upon which you can address both the needed raise in revenues and the proper reform of entitlements.”

None of these statements are particularly noteworthy. In the 2012 presidential campaign, President Obama said he had used the plan as an outline for his own deficit-reduction efforts. “That’s what we’ve done, made some adjustments to it, and we’re putting it forward before Congress right now, a \$4 trillion plan,” he said in a debate with Mitt Romney.

Moreover, when Obama tried to reach a “grand bargain” with Republicans on the deficit in 2011, he floated the idea of changing the cost-of-living adjustment for Social Security benefits — and then even included the concept in his 2014 budget proposal. When Emily’s List accuses Sestak of wanting to cut Social Security benefits, it is actually referring to a proposal embraced by Obama.

More to the point, Sestak has never embraced or voted on particular elements of the Bowles-Simpson report. His support remained vague — and at times was critical. In an interview on MSNBC shortly after the report was released, he said the long-term health of Social Security could be handled easily but health care entitlements such as Medicare and Medicaid were a bigger challenge. “That was the disappointment in the deficit commission,” he said. “They just said, here’s a cap on Medicare and Medicaid health care. They didn’t say how to go.”

he Sestak campaign, in its letter to television stations, cited dozens of votes in Congress in which Sestak supported expanded Social Security benefits. The letter also cited Sestak's 2015 book, filled with policy proposals, in which he called for making the wealthy pay more into Social Security so benefits would not need to be cut or the retirement age raised. In other words, Sestak's actual plan was the exact opposite of what Emily's List suggests.

The ad's citation of PolitiFact is especially misleading. That 2014 fact check had nothing to do with Sestak but concerned a House member who had voted for a 2012 resolution that called for following the principles of Bowles-Simpson. (It failed 8 to 382.) Buried in the article, PolitiFact said it was true that Bowles-Simpson called for raising the retirement age. But it also noted that under Bowles-Simpson, it would not inch up from 67 to 68 until 2050. The ruling in this particular fact check was "half true."

Emily's List communication director Marcy Stech defended the ad. "The facts stand for themselves," she said. "In this democratic primary, this distinction is a key difference between McGinty and Sestak and one PA voters deserve to hear."

The Pinocchio Test

This ad is a depressing example of how random statements can be twisted into sharp-edged attacks. Sestak never supported the specifics of the plan highlighted by Emily's List; he offered just vague expressions of interest in tackling the challenges posed by systemic budget deficits.

This is indeed a serious issue, but few lawmakers will be willing to make hard choices if they fear they will be falsely attacked like this. Emily's List is doing a disservice to American democracy when it engages in such deceptive advertising.

In fact, Obama made specific policy recommendations derived from the Bowles-Simpson report. One can only imagine the attack ad Emily's List would have run if Obama were attempting to win a Senate nod against a woman.

Readers always should be wary when political attack ads use the word "truth" and cite fact checkers. The television stations that refused to pull this ad should be ashamed of themselves — as should Emily's List. This is simply a sleazy way to win a campaign.

Four Pinochios

Fact Checker newsletter

What's true, what's false or in-between.

About our rating scale)

Sign up

Send us facts to check by filling out this form

Check out our 2016 candidates fact-check page

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How would you rate this claim? (The check mark means you think the statement is true, not that you agree with the rating.)

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[View Results](#)

This is a non-scientific user poll. Results are not statistically valid and cannot be assumed to reflect the views of Washington Post users as a group or the general population.

[Share The Facts](#)

Emily's List

Political Action Committee

Democratic Senate hopeful supported cutting Social Security and Medicare benefits and raising the retirement age

In a campaign advertisement – Tuesday, April 26, 2016


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campaign 2016

state of the 2016 race

Glenn Kessler has reported on domestic and foreign policy for more than three decades. He would like your help in keeping an eye on public figures. Send him statements to fact check by emailing him, tweeting at him, or sending him a message on Facebook.  Follow @GlennKesslerWP

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EMILY's List

We ignite change by getting pro-choice
Democratic women elected to office.

WOMEN VOTE! LAUNCHES AD EDUCATING PENNSYLVANIA VOTERS ON SESTAK'S RECORD

April 11, 2016

WOMEN VOTE! LAUNCHES AD EDUCATING PENNSYLVANIA VOTERS ON SESTAK'S RECORD

*On the heels of inflammatory "prostituted" comment, ad highlights Sestak's willingness to cut
Medicare and Social Security*

WASHINGTON, D.C. – With just a few short weeks until the April 26th Democratic primary for U.S. Senate in Pennsylvania and questions raised about Joe Sestak's commitment to Medicare and Social Security, EMILY's List's voter mobilization and education project, WOMEN VOTE!, released a new ad, "Spin," on Tuesday educating Pennsylvania voters on Sestak's real record. In the House of Representatives, Congressman Sestak joined the Tea Party to support a budget plan that would put Medicare and Social Security at risk, a move that would impact Pennsylvania women and seniors. This comes on the heels of Joe Sestak making inflammatory comments about his primary race against Katie McGinty, stating, "why win a seat, but you have to win it through a prostituted way?"

"Pennsylvania voters deserve to know the facts about Congressman Sestak," said EMILY's List President Stephanie Schriock. "Not only was Joe Sestak willing to bargain away the benefits of Pennsylvania seniors, his derogatory and offensive statements show that he's not looking out for the women he supposedly wants to represent. Joe Sestak is wrong for seniors, he's wrong for women, and he's wrong for Pennsylvania."

The ad is part of WOMEN VOTE!'s \$1 million program that started on April 5th mobilizing voters in the Philadelphia area to support Katie McGinty's bid for Senate. The ad will run through Election Day.

View the ad here (<https://www.youtube.com/watch?v=AHqUXffPUls&feature=youtu.be>).

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WOMEN VOTE! is EMILY's List's independent expenditure arm which works to educate and mobilize women voters on behalf of pro-choice Democratic women candidates, and help turnout voters for Democrats up and down the ballot. Launched in 1995, the EMILY's List WOMEN VOTE! project combines polling and research, sophisticated message testing, the latest innovations in data and technology as well as good old-fashioned voter contact to mobilize millions of women voters across the country.

In 2012, EMILY's List had the largest WOMEN VOTE! program in the organization's history. WOMEN VOTE! spent nearly \$11 million in 22 races and 17 states, including a record \$3.5 million on behalf of Tammy Baldwin, the largest independent expenditure in EMILY's List history. WOMEN VOTE! had a near-perfect success rate during our primary season and won 17 of the 19 races decided on November 6th.

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Majority Forward is a not-for-profit 501(c)(4) organization created to support voter registration and voter turnout efforts. Our primary mission is to encourage full participation by voters in our election process.

In our political work, Majority Forward works with an affiliated super PAC, Senate Majority PAC, to elect candidates whose policies represent the goals of the majority of Americans who want to move our country forward.



Paid for by Majority Forward, majorityforward.org, not authorized by any candidate or candidate's committee